UNITED STATES PATENT AND TRADEMARK OFFICE

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ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/707,488	HAAS ET AL.
Office Action Summary	Examiner	Art Unit
	ROBERT SOREY	3626

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 October 2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-20_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   In the amendment filed 10/10/2008, the following occurred: Claims 1, 2, 5, 7, 8,

and 11-20 were amended. Claims 1-20 are presented for examination.

Response to Amendments

2.   Applicant's amendments to claims 1, 2, 5, 7, 8, and 11-20 appear to not add new

matter and will be treated below on the merits.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   **Claims 1-6, 13, and 15-20** are rejected under 35 U.S.C. 102(e) as being

anticipated by U.S. Patent 7,353,238 to Glicklich.

5.   As per claim 1, Glicklich teaches a system for providing an updated and reliable

health forecast guide, comprising:

--*a central server* (Fig. 1, ele. 106)(see: Glicklich, column 13, lines 24-33) *for*

storing a plurality of health-related data from a plurality of patients (see: Glicklich,

column 17, line 59 through column 18, line 8);

--*a health forecast guide stored on the central server* (Fig. 1, ele. 181, 182)(see:

Glicklich, column 14, lines 4-17, is met by clinical outcomes and studies)*, said health*

forecast guide created by analyzing said plurality of health-related data (see: Glicklich,

column 14, lines 17-50; and column 19, lines 1-23, is met by processing, generating

clinical outcome, and analyzing)*; and*

--*a plurality of remotely-located computer workstations coupled to said central*

server (Fig. 1, ele. 190)(see: Glicklich, column 8, lines 21-34), *said plurality of remotely-*

located computer workstations for receiving said health forecast guide from said central

server and sending said plurality of health-related data to said central server (see:

Glicklich, column 8, line 35 through column 9, line 7; and column 9, lines 24-42)

6.   As per claim 2, Glicklich teaches the system as claimed, see discussion of claim

1, and further teaches:

--*said plurality of health-related data comprises at least one of a patient age* (see:

Glicklich, column 11, lines 40-41) *and a patient gender*.

7.   As per claim 3, Glicklich teaches the system as claimed, see discussion of claim

1, and further teaches:

--*said plurality of health-related data is collected according to an authorized*

protocol for maintaining reliability in obtaining said plurality of health-related data (see:

Glicklich, column 9, lines 15-24; column 10, lines 24-30; column 20, lines 3-16 and 43-

58).

8.   As per claim 4, Glicklich teaches the system as claimed, see discussion of claim

1, and further teaches:

--said central server creates an updated health forecast guide when said central

server has received a threshold amount of said plurality of health-related data (see:

Glicklich, column 3, lines 36-47; column 9, lines 24-55; column 10, lines 31-63; column

14, lines 50-62).

9.   As per claim 5, Glicklich teaches the system as claimed, see discussion of claim

1, and further teaches:

--said plurality of remotely-located computer workstations and said central server

are interconnected by way of an internet network (Fig. 1, ele. 195)(see: Glicklich,

column 8, lines 21-65).

10.   As per claim 6, Glicklich teaches the system as claimed, see discussion of claim

1, and further teaches:

--said internet network provides said central server with said health-related data

from a plurality of populations over a plurality of regions (Fig. 1)(see: Glicklich, column

3, lines 36-47; column 4, lines 64-66; column 8, line 61 through column 9, line 3; column

11, lines 36-40; column 14, lines 41-47; column 20, line 59 through column 21, line 11).

11.   As per claim 13, Glicklich teaches a method for providing an updated and

reliable health forecast guide, comprising:

--inputting a first plurality of health-related data from a plurality of patients into a

plurality of remotely-located workstations (Fig. 1, ele. 190)(see: Glicklich, column 8, line

21 through column 9, line 7; and column 9, lines 24-42; column 14, lines 8-13; column);

--uploading said first plurality of health-related data onto a central server (see:

Glicklich, column 9, lines 24-27);

--*creating a health forecast guide based on said first plurality of health-related*

data (see: Glicklich, column 20, lines 3-16, is met by new study; and column 14, lines

17-50; and column 19, lines 1-23, is met by processing, generating clinical outcome,

and analyzing);

--*inputting a second plurality of health-related data from a patient into one of said*

plurality of remotely-located workstations after said inputting said first plurality of health-

related data (see: Glicklich, column 3, lines 36-47; column 9, lines 24-55; column 10,

lines 31-63; column 14, lines 50-62);

--*uploading said second plurality of health-related data onto said central server*

(see: Glicklich, column 3, lines 36-47; column 9, lines 24-55; column 10, lines 31-63;

column 14, lines 50-62);

--*modifying said health forecast guide based on said second plurality of health-*

related data to form an updated health forecast guide (see: Glicklich, column 3, lines 36-

47; column 9, lines 24-55; column 10, lines 31-63; column 14, lines 28-64);

--*downloading* said updated *health forecast guide from said central server to* one

of *said* plurality of *remotely located workstation* (Fig. 2)(see: Glicklich, column 8, line 35

through column 9, line 7; and column 9, lines 24-42; column 13, lines 44-55); and

--*estimating a risk of illness based on said updated health forecast guide* (see:

Glicklich, column 10, lines 1-16; column 11, line 64 through column 12, line 14; column

20, line 59 through column 21 line 11; column 23, lines 53-67).

12.   As per claim 15, Glicklich teaches the system as claimed, see discussion of claim

13, and further teaches:

--said first plurality of health-related data is directed to lung cancer and

comprises at least one of a patient age (Fig. 14, ele. 181)(see: Glicklich, column 11,

lines 40-41; and column 21, lines 50-58), *a patient gender, a nodule size, a nodule type,*

and a patient smoking habit.

13.   As per claim 16, Glicklich teaches the system as claimed, see discussion of

claim 13, and further teaches:

--quantifying an amount of said second plurality of health-related data that is

uploaded onto said central server (see: Glicklich, column 3, lines 36-47; column 9, lines

24-55; column 10, lines 31-63; and column 14, lines 50-62, is met by new data received

by the central server, which is a quantifiable amount recognized by the system).

14.   As per claim 17, Glicklich teaches the system as claimed, see discussion of claim

16, and further teaches:

--determining that a threshold amount of said second plurality of health-related

data has been uploaded onto said central server (see: Glicklich, column 3, lines 36-47;

column 9, lines 24-55; column 10, lines 31-63; and column 14, lines 28-64, threshold

attained determination is met by new data received and then used by the central server

to produce up-to-date results).

15.   As per claim 18, Glicklich teaches the system as claimed, see discussion of claim

17, and further teaches:

--sending said second plurality of health-related data and said updated health

forecast guide via an internet network (Fig. 1, ele. 195)(see: Glicklich, column 8, lines

21-65).

16.   As per claim 19, Glicklich teaches the system as claimed, see discussion of claim

18, and further teaches:

   --sending said __first__ plurality of health-related data from a plurality of populations

over a plurality of regions to said central server (Fig. 1)(see: Glicklich, column 3, lines

36-47; column 4, lines 64-66; column 8, line 61 through column 9, line 3; column 11,

lines 36-40; column 14, lines 41-47; column 20, line 59 through column 21, line 11).

17.   As per claim 20, Glicklich teaches the system as claimed, see discussion of claim

19, and further teaches:

   --utilizing said __second__ plurality of health-related data for updating at least one of

a local health forecast guide (Fig. 7, ele. 414)(see: Glicklich, column 3, lines 36-47;

column 4, lines 64-66; column 8, line 61 through column 9, line 3; column 11, line 66

through column 12, line 14; column 15, lines 4-6; column 20, line 59 through column 21,

line 11, local is met by specific geographic location), *a regional health forecast guide, a*

national health forecast guide, and a global health forecast guide.

Claim Rejections - 35 USC § 103

18.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

19.   **Claims 7-12 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable

over U.S. Patent 7,353,238 to Glicklich in view of U.S. Application Publication

2002/0082906 to Kirshner.

20.   As per claim 7, Glicklich teaches a system for providing an updated and reliable

percentile ranking guide, comprising:

       --*a central server* (Fig. 1, ele. 106)(see: Glicklich, column 13, lines 24-33) *for*

storing a plurality of data from a plurality of patients (see: Glicklich, column 23, lines 56-

67);

       --*a percentile-ranking guide stored on the central server, said percentile-ranking*

guide created by analyzing said plurality of data(see: Glicklich, column 10, lines 31-51);

and

       --*a plurality of remotely-located computer workstations coupled to said central*

server (Fig. 1, ele. 190)(see: Glicklich, column 8, lines 21-34), *said plurality of remotely-*

located computer workstations for receiving the percentile-ranking guide from said

central server and sending said plurality of data to said central server (see: Glicklich,

column 8, line 35 through column 9, line 7; and column 9, lines 24-42).

       Glicklich fails to teach that the data is *coronary-related*; however, Kirshner

teaches coronary-related data (see: Kirshner, Background of the Invention and

Summary of the Invention - paragraphs 1-17). Additionally, Kirshner teaches a

coronary-related percentile-ranking guide (see: Kirshner, paragraphs 2, 11, 13 and 81,

is met by the risk factor collection section; and paragraphs 149-157, is met by the risk

factor calculation section which calculates and categorizes risk for developing a

coronary-related problem using a point ranking system and associated percentages). It

would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Glicklich and Kirshner. The well known elements

described are merely a combination of old elements, and in the combination, each

element merely would have performed the same function as it did separately, and one

of ordinary skill in the art would have recognized that the results of the combination

were predictable.

21.   As per claim 8, Glicklich teaches the system substantially as claimed, see

discussion of claim 7, and further teaches:

>   *--said plurality of coronary-related data comprises at least one of a <u>patient</u> age*

(see: Glicklich, column 11, lines 40-41. see also: (see: Kirshner, Fig. 3B, ele. 310b; and

paragraphs 126, 144, 150, 151, and 152), *a patient gender, a patient cholesterol level, a*

patient exercise habit, a patient smoking habit, and a calcium score.

22.   As per claim 9, Glicklich teaches the system substantially as claimed, see

discussion of claim 7, and further teaches:

>   *--said plurality of coronary-related data is collected according to a predetermined*

protocol for maintaining reliability in comparison of said plurality of coronary-related data

(see: Glicklich, column 9, lines 15-24; column 10, lines 24-30; column 20, lines 3-16 and

43-58).

23.   As per claim 10, Glicklich teaches the system substantially as claimed, see

discussion of claim 7, and further teaches:

>   *--said central server creates an updated percentile-ranking guide when said*

central server has received a threshold amount of said plurality of coronary-related data

(see: Glicklich, column 3, lines 36-47; column 9, lines 24-55; column 10, lines 31-63;

column 14, lines 50-62).

24.   As per claim 11, Glicklich teaches the system substantially as claimed, see

discussion of claim 7, and further teaches:

      --*said plurality of remotely-located computer workstations and said central server*

are interconnected by way of an internet network (Fig. 1, ele. 195)(see: Glicklich,

column 8, lines 21-65).

25.   As per claim 12, Glicklich teaches the system substantially as claimed, see

discussion of claim 11, and further teaches:

      --*said plurality of remotely-located computer workstations are located across at*

least one of a region, a country, and a plurality of countries for providing said central

server with said plurality of coronary-related data from a plurality of populations (Fig.

1)(see: Glicklich, column 3, lines 36-47; column 4, lines 64-66; column 8, line 61

through column 9, line 3; column 11, lines 36-40; column 14, lines 41-47; column 20,

line 59 through column 21, line 11).

26.   As per claim 14, Glicklich teaches the system substantially as claimed, see

discussion of claim 13, and further teaches:

      --*said first plurality of health-related data and comprises at least one of a patient*

age (see: Glicklich, column 11, lines 40-41; and column 23, lines 58-64), *a patient*

gender, a patient cholesterol level, a patient exercise habit, a patient smoking habit, and

a calcium score.

      Glicklich fails to teach that the data *is directed to coronary-related disease*;

however, Kirshner teaches coronary-related data (see: Kirshner, Background of the

Invention and Summary of the Invention - paragraphs 1-17). Additionally, Kirshner

teaches a coronary-related percentile-ranking guide (see: Kirshner, paragraphs 2, 11,

13 and 81, is met by the risk factor collection section; and paragraphs 149-157, is met

by the risk factor calculation section which calculates and categorizes risk for

developing a coronary-related problem using a point ranking system and associated

percentages). See also that Kirshner teaches patient age (see: Kirshner, Fig. 3B, ele.

310b; and paragraphs 126, 144, 150, 151, and 152). It would have been obvious to one

of ordinary skill in the art at the time the invention was made to combine the teachings

of Glicklich and Kirshner. The well known elements described are merely a combination

of old elements, and in the combination, each element merely would have performed

the same function as it did separately, and one of ordinary skill in the art would have

recognized that the results of the combination were predictable.

Response to Arguments

27.   Applicant's arguments from the response filed on 10/10/2008 have been fully

considered and will be addressed below in the order in which they appeared.

28.   In the remarks, Applicant argues in substance that (1) (claim 1) "Kirshner does

not disclose "a health forecast guide stored on the central server, said health forecast

guide created by analyzing said plurality of health-related data." Kirshner does not

disclose using health-related data from a plurality of patients to create a health-forecast

guide"; that (2) (claim 7) "Kirshner does not disclose "a percentile-ranking guide stored

on the central server, said percentile-ranking guide created by analyzing said plurality of

coronary-related data." Kirshner does not disclose using a plurality of coronary-related

data from a plurality of patients to create a percentile-ranking guide"; that (3) (claim 13)

"Kirshner does not disclose "creating a health forecast guide based on said first plurality of health-related data." Kirshner does not disclose using a plurality of health-related data from a plurality of patients to create a health forecast guide. Kirshner does not disclose "modifying said health forecast guide based on said second plurality of health-related data to form an updated health forecast guide." Kirshner also does not disclose "downloading said updated health forecast guide from said central server to one of said plurality of remotely-located workstations.""

29.   Applicant's arguments (1)-(3) with respect to claims 1, 7, and 13, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

30.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

31.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

32.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

33.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

34.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./
Examiner, Art Unit 3626
12 January 2009

/Robert Morgan/
Primary Examiner, Art Unit 3626